IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

NOTICE OF MOTION NO.199 OF 2007
IN
WRIT PETITION NO.1225 OF 2006

Dr. Hemlata Umesh Kakade .. Petitioner
v/s.
The State of Maharashtra and others .. Respondents

In chamber at 2.35 p.m.

Mr. N.V. Bandiwdekar for the petitioner.
Mr. A.A. Kumbhakoni, Assistant Advocate General with Mr. M.D. Naik, Assistant Government Pleader for the respondent Nos.1 and 2.

CORAM : F.I. REBELLO AND
ANOOP V. MOHTA, JJ.
DATED : 19TH APRIL, 2007

P.C.

By this motion, the petitioner has moved this court for recalling the order dated 27th April, 2006. By that order, I had issued direction that as the petitioner was appointed on ad-hoc basis, he should be continued till such time as a candidate was regularly selected. This order was passed on 27th April, 2006.

2. The present motion is on behalf of the respondent No.3, praying for recall of the said order. It is contended that the petitioner was appointed purely on contractual basis. In support thereof, our attention is invited amongst others to the order dated 26.6.2004. It is

submitted that this is purely a contractual appointment which comes to an end and hence, the order of this court suffers from an error apparent on the face of record. Reliance was also placed on the judgment of the Supreme Court in the case of Director, Institute of Management Development, U.P. v. Pushpa Srivastava (Smt.), (1992) 4 SCC 33. On behalf of the respondents, the learned counsel submits that the petitioner has been working on ad-hoc basis and she has not been paid for that period and even otherwise, the order of this court suffers from error of law apparent on the record.

3. We heard the learned counsel for the parties. In our opinion, from the documents and the evidence on record, it is clear that the appointment of the petitioner was purely on contractual basis and for a period upto 30th April, 2005. Thereafter, there is subsequent order dated 25.5.2005 to which appointment was from the date of her joining the duty till the end of the academic year 2005-2006. The post is unaided. In other words, non-grant post. Considering the above, in our opinion, the order will have to be recalled as our order proceeded on the footing that it was a regular post and for some reason has not been filled in and as such it is the ad-hoc appointment. In the light of that, the order dated 27th April, 2006 stands recalled. Consequently, rule discharged.

4. On taking instructions, the learned Assistant Advocate General makes a statement that for a period from which she worked should be paid the amount payable in terms of the earlier date of appointment. The statement made is accepted. Payments to be made within two weeks from today. Motion disposed of.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J.)